

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

MATTHEW McKENDRICK,

Petitioner,

v.

ACTION NO. 2:16cv224

**HAROLD W. CLARKE, Director,
Virginia Department of Corrections,**

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violations of federal rights pertaining to petitioner's convictions on July 22, 2014, in the Circuit Court of Chesterfield County, Virginia, for carnal knowledge of a minor. As a result of the convictions, petitioner was sentenced to serve 60 years in prison, with 56 years suspended, leaving a total active time to serve of four years.

The matter was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Report and Recommendation filed October 13, 2016, recommends dismissal of the petition. Each party was advised of his right to file written objections to the findings and recommendations made by

the Magistrate Judge. On November 2, 2016, the court received petitioner's Objections to the Report and Recommendation. The respondent filed no response to the objections and the time for responding has now expired.

The court, having reviewed the record and examined the objections filed by petitioner to the Report and Recommendation, and having made de novo findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report and Recommendation filed October 13, 2016. It is, therefore, ORDERED that Respondent's Motion to Dismiss is GRANTED and the Petitioner's petition is DENIED and DISMISSED with prejudice.

Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date of entry of such judgment.

Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right, therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

The Clerk is directed to mail a copy of this Final Order to petitioner and to provide an electronic copy of the Final order to counsel of record for respondent.

/s/
Rebecca Beach Smith - RBS

Chief Judge
REBECCA BEACH SMITH
CHIEF UNITED STATES DISTRICT JUDGE

November 29, 2016